

2ESSB 6508 - H AMD TO WAYS COMM AMD (H-5513.1/10) **1461**

By Representative Ross

NOT ADOPTED 3/04/2010

1 On page 2, after line 2 of the striking amendment, insert the
2 following:

3 "(3) In an action under RCW 4.20.010 that is based on a parent's
4 significant involvement in an adult child's life, if a defendant
5 establishes by a preponderance of the evidence that a violation of RCW
6 46.37.530(1)(c) contributed to the decedent's death, the liability of
7 any defendants against whom judgment is entered is several and not
8 joint."

9
10 On page 2, after line 36 of the striking amendment, insert the
11 following:

12 "(5) In an action under this section that is based on a parent's
13 significant involvement in a child's life, if a defendant establishes
14 by a preponderance of the evidence that a violation of RCW
15 46.37.530(1)(c) contributed to the decedent's death, the liability of
16 any defendants against whom judgment is entered is several and not
17 joint."

18
19 On page 4, line 8 of the striking amendment, after "death" insert
20 ".

21 (5) In an action under this section that is based on a parent's
22 significant involvement in a child's life, if a defendant establishes
23 by a preponderance of the evidence that a violation of RCW
24 46.37.530(1)(c) contributed to the decedent's death, the liability of
25 any defendants against whom judgment is entered is several and not
26 joint"

27

1 On page 5, after line 12 of the striking amendment, insert the
2 following:

3 "(6) In an action under this section that is based on a parent's
4 significant involvement in a child's life, if a defendant establishes
5 by a preponderance of the evidence that a violation of RCW
6 46.37.530(1)(c) contributed to the decedent's death, the liability of
7 any defendants against whom judgment is entered is several and not
8 joint.

9
10 **Sec. 5.** RCW 4.22.070 and 1993 c 496 s 1 are each amended to read
11 as follows:

12 (1) In all actions involving fault of more than one entity, the
13 trier of fact shall determine the percentage of the total fault which
14 is attributable to every entity which caused the claimant's damages
15 except entities immune from liability to the claimant under Title 51
16 RCW. The sum of the percentages of the total fault attributed to at-
17 fault entities shall equal one hundred percent. The entities whose
18 fault shall be determined include the claimant or person suffering
19 personal injury or incurring property damage, defendants, third-party
20 defendants, entities released by the claimant, entities with any other
21 individual defense against the claimant, and entities immune from
22 liability to the claimant, but shall not include those entities immune
23 from liability to the claimant under Title 51 RCW. Judgment shall be
24 entered against each defendant except those who have been released by
25 the claimant or are immune from liability to the claimant or have
26 prevailed on any other individual defense against the claimant in an
27 amount which represents that party's proportionate share of the
28 claimant's total damages. The liability of each defendant shall be
29 several only and shall not be joint except in the following
30 circumstances:

31 (a) A party shall be responsible for the fault of another person
32 or for payment of the proportionate share of another party where both
33 were acting in concert or when a person was acting as an agent or
34 servant of the party.

1 (b) If the trier of fact determines that the claimant or party
2 suffering bodily injury or incurring property damages was not at
3 fault, the defendants against whom judgment is entered shall be
4 jointly and severally liable for the sum of their proportionate shares
5 of the ~~((claimants))~~ claimant's total damages, except as otherwise
6 provided in RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010.

7 (2) If a defendant is jointly and severally liable under one of
8 the exceptions listed in subsections (1)(a) or (1)(b) of this section,
9 such defendant's rights to contribution against another jointly and
10 severally liable defendant, and the effect of settlement by either
11 such defendant, shall be determined under RCW 4.22.040, 4.22.050, and
12 4.22.060.

13 (3)(a) Nothing in this section affects any cause of action
14 relating to hazardous wastes or substances or solid waste disposal
15 sites.

16 (b) Nothing in this section shall affect a cause of action arising
17 from the tortious interference with contracts or business relations.

18 (c) Nothing in this section shall affect any cause of action
19 arising from the manufacture or marketing of a fungible product in a
20 generic form which contains no clearly identifiable shape, color, or
21 marking."

22
23 Renumber the remaining sections consecutively and correct internal
24 references accordingly.

25
26

EFFECT: Provides that joint and several liability does not apply in actions under the wrongful death and survival statutes that are based on a parent's significant involvement in a child's life if a defendant establishes by a preponderance of the evidence that the decedent's failure to wear a helmet while operating a motorcycle, motor-driven cycle, or moped, contributed to the decedent's death.

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